

Remarks

1. Summary of the Office Action

In the final office action mailed October 16, 2007, the Examiner rejected the claims under 35 U.S.C. § 102 as being allegedly anticipated by U.S. Patent Application No. 2003/0119536 (Hutchinson).

2. Status of the Claims

Applicant has amended claims 6, 16, and 22 to expressly include the elements that were set forth in dependent claims 28, 29, and 30 (which depended respectively from claims 6, 16, and 22), and Applicant has cancelled claims 28, 29, and 30.

Applicant has also amended claim 27 to more particularly point out and distinctly claim the subject matter at issue, namely, to recite that the result of granting levels of floor to two or more user stations is that multiple stations concurrently hold levels of the floor. The specification as filed supports this amendment at page 19, line 20 – page 20, line 6, where the specification explains that the server could output media with varying attenuation for different users depending on their levels of floor, and that "As a station releases its control over a given floor level, the server could then responsively increment the floor levels of other stations that hold some level of the floor" (thus describing that a plurality of stations currently hold levels of the floor).

Now pending are claims 6-11, 13-18, 22-23, and 25-27, of which claims 6, 16, 22, and 27 are independent and the remainder are dependent.

3. Response to Rejections

a. Claims 1-26

Of these claims, claims 6, 16, and 22 are independent and recited the subject matter that was recited in claims 28, 29, and 30. Applicant submits that the Examiner erred in rejecting claims 28, 29, and 30 as being allegedly anticipated by Hutchinson, and Applicant therefore submits that claims 6, 16, and 22 are allowable.

Each of these claims 6, 16, and 22 recites, among other elements, the function of treating an incoming Real-time Transport Protocol (RTP) media stream as an implicit denial of a floor request. For example, claim 6 recites an implicit floor control method in which a user station sends a first media stream to a communication server as an implicit floor request, begins to receive a second media stream comprising an RTP stream from the communication server while sending the first media stream to the communication server, and treats receipt of the second media stream as an implicit denial of the implicit floor request. Claim 16 recites an implicit floor control method in which a user station receives a user request for the floor while the user station is receiving an incoming media stream comprising an RTP stream from the communication server, and the user station treats its receipt of the incoming media stream from the communication server as an implicit denial of the user's request for the floor. And claim 22 recites a cellular mobile station that includes a processor programmed to send a first media stream as an implicit floor request to a communication server and to treat receipt of a second media stream comprising an RTP stream from the communication server, while sending the first media stream to the communication server, as an implicit floor denial.

Hutchinson does not teach the elements of any of these claims and therefore clearly does not anticipate the claims under 35 U.S.C. § 102.

In rejecting the claims, the Examiner asserted that Hutchinson's disclosure of receiving an "unfavorable acknowledgement" message constitutes a disclosure of receiving a media stream. Applicant disagrees. Those of ordinary skill in the art would understand that Hutchinson's teaching of a controller sending an "unfavorable acknowledgement" most likely means that the controller sends an unfavorable acknowledgement message (e.g., a NACK, as opposed to an ACK). One of ordinary skill in the art would have no logical reason to read Hutchinson's "unfavorable acknowledgement" as a "media stream."

Nevertheless, in order to preclude what Applicant considers an overbroad interpretation of Applicant's claims, Applicant has amended the claims to specifically recite that the second or incoming (treated as an implicit floor denial) comprises a Real-time Transport Protocol (RTP) stream. As Applicant noted in the response after final filed December 11, 2007, Hutchinson fails to teach treating receipt of an RTP stream as an implicit floor denial. This is so, regardless of the fact that RTP streams are as generally known and understood in the art. Hutchinson does not teach treating receipt of an incoming media stream comprising an RTP stream from a communication server as an implicit floor denial. Further, Hutchinson does not teach receiving a second media stream comprising an RTP stream from the server while sending the first media stream to the server, and treating receipt of the second media stream comprising the RTP stream from the server as an implicit denial of the implicit floor request.

Because Hutchinson fails to teach the combination of elements recited in any independent claims 6, 16, and 22, Hutchinson fails to anticipate any of these claims. Consequently, Applicant submits that claims 6, 16, and 22 are allowable. Furthermore, without conceding the Examiner's assertions regarding the dependent claims, Applicant submits that the dependent claims are allowable as well for at least the reason that they depend from allowable claims 6, 16, and 22.

b. Claim 27

Claim 27 recites an implicit floor control method for a full-duplex packet-based real-time media session in which a plurality of user stations exchange media via a communication server. According to the claim, the communication server grants levels of floor to two or more user stations in response to receipt of media streams from the user stations and based on an order in which the communication server begins to receive the media streams from the user stations. The claim then explains that granting levels of floor to two or more user stations comprises granting a highest floor level to a first user station from which the communication server receives a media stream and granting a next floor level to a next station from which the communication server receives a media stream when the first user station currently holds the highest floor level, so that multiple stations concurrently hold levels of the floor.

An example of this method is described in the specification at pages 19-20, explaining for instance that "the server could even be arranged to grant levels of floor to various participants in a full-duplex session. For example, the server could output most loudly the media from a station with a highest floor level, and the server could incrementally attenuate the media that it outputs from each other participating station having a successively lower floor level."

Applicant submits that claim 27 patentably distinguishes over Hutchinson and is therefore allowable.

At best, Hutchinson teaches the concept of granting "broadcast priority" (i.e., floor) to a single device at a time, and broadcasting to each other device the audio from a device to which broadcast priority is granted. *Id.* at paragraph 0034. In this regard, Hutchinson discloses possible use of a priority table that may indicate whether or not to grant broadcast priority to a given device. *Id.* at paragraph 0054. However, the issue in Hutchinson is still merely whether to

grant or deny a given device's request for the floor. Hutchinson fails to disclose anything about having or granting levels of floor, and Hutchinson specifically fails to disclose the method of claim 27, including the functionality of providing multiple concurrent levels of floor as recited.

In the final office action, the Examiner again relied on Hutchinson's teaching of "broadcast priority" as an alleged teaching of the claimed granting levels of floor. However, at best, the Examiner has merely pointed out Hutchinson's teaching that when an access request is granted, the arbitrating device relinquishes control of the broadcast link to the requesting device (i.e., gives up the floor), which the Examiner construed to be the "highest floor level." It thus seems that the Examiner has interpreted "the floor" to be the "highest floor level." Yet even if we accept this interpretation for sake of discussion, the Examiner has not pointed to any further floor level in Hutchinson. In Hutchinson, a user station either has the floor or it does not have the floor. There are no levels, and there is no teaching in Hutchinson of the claimed granting of a highest floor level to a first user station and granting a next floor level to a next station *when the first user station currently holds the highest floor level*. The Examiner has not pointed to any such disclosure in Hutchinson, because no such disclosure exists in Hutchinson.

In the advisory action mailed December 27, 2007, the Examiner asserted that Hutchinson's giving broadcast priority to devices "means that devices have different levels of floor granting." Applicant agrees that giving broadcast priority to devices amounts to different levels of floor granting. However, different levels of *floor granting* is not what claim 27 recites. Claim 27 recites granting of multiple different levels of the floor. Hutchinson teaches prioritizing the right to acquire the floor. Hutchinson does not teach granting multiple levels of the floor as recited in claim 27.

Because Hutchinson does not disclose the invention recited by claim 27, Hutchinson does not anticipate claim 27. Therefore, Applicant submits that claim 27 is allowable.

4. Conclusion

In view of the foregoing, the Applicant submits that all of the pending claims are allowable, and Application therefore respectfully requests favorable reconsideration and allowance.

Should the Examiner wish to discuss this case with the undersigned, the Examiner is invited to call the undersigned at (312) 913-2141.

Respectfully submitted,

**McDONNELL BOEHNEN
HULBERT & BERGHOFF LLP**

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By: /Lawrence H. Aaronson/
Lawrence H. Aaronson
Reg. No. 35,818